

VALENTI LAW APC

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

AHMED AL-KUBAISI.

Plaintiff,

vs.

DAVID VICENTE JR; and DOES 1-10.

Defendants.

| Case No.:

COMPLAINT FOR:

DENIAL OF CIVIL RIGHTS AND
ACCESS TO PUBLIC FACILITIES
TO PHYSICALLY DISABLED
PERSONS IN VIOLATION OF THE
AMERICANS WITH DISABILITIES
ACT OF 1990, (42 U.S.C. §12101, *et
seq.*) AND THE UNRUH CIVIL
RIGHTS ACT, (CALIFORNIA CIVIL
CODE §51, *et seq.*)

DEMAND FOR JURY TRIAL

1 “[T]he continuing existence of unfair and unnecessary discrimination and
2 prejudice denies people with disabilities the opportunity to compete on an
3 equal basis and to pursue those opportunities for which our free society
4 is justifiably famous.” 42 U.S.C. §12101(a)(8).

5 “It is the policy of this state to encourage and enable individuals with a
6 disability to participate fully in the social and economic life of the state ...”
7 California Government Code §19230(a).

8 Plaintiff AHMED AL-KUBAISI (hereinafter referred to as “Plaintiff”)
9 complains of DAVID VICENTE JR, as an individual; and DOES 1-10, (each,
10 individually a “Defendant” and collectively “Defendants”) and alleges as follows:

I. PARTIES

11 1. Plaintiff AHMED AL-KUBAISI is a California resident and a
12 qualified physically disabled person. He has paraplegia and uses a wheelchair for
13 mobility. Plaintiff prides himself on his independence and on empowering other
14 disabled persons to be independent.

15 2. Defendants DAVID VICENTE JR; and DOES 1-10 are and were the
16 owners, operators, lessors and/or lessees of the subject business, property, and
17 facility at all times relevant in this Complaint.

18 3. Plaintiff does not know the true names of Defendants, their business
19 capacities, their ownership connection to the property and business, or their
20 relative responsibilities in causing the access violations herein complained of, and
21 alleges a joint venture and common enterprise by all such Defendants. Plaintiff is
22 informed and believes that each of the Defendants herein, including DOES 1
23 through 10, inclusive, is responsible in some capacity for the events herein alleged,
24 or is a necessary party for obtaining appropriate relief. Plaintiff will seek leave to
25 amend when the true names, capacities, connections, and responsibilities of the
26 Defendants and Does 1 through 10, inclusive, are ascertained.

1 4. Defendants own and owned the property located at 148 Best Ave.,
2 San Leandro, CA 94577 (“Subject Property”) at all relevant times.

3 5. Defendants operate and operated a dental office doing business as
4 DAVID FAMILY DENTISTRY (“dental office”), located at the Subject Property,
5 at all relevant times.

6 6. Plaintiff alleges that the Defendants have been and are the owners,
7 franchisees, lessees, general partners, limited partners, agents, trustees, employees,
8 subsidiaries, partner companies and/or joint ventures of each of the other
9 Defendants, and performed all acts and omissions stated herein within the course
10 and scope of such relationships causing the damages complained of herein.

11 **II. JURISDICTION AND VENUE**

12 7. This Court has subject matter jurisdiction over this action pursuant to
13 28 U.S.C. §1331 and §1343(a)(3) and (a)(4) for violations of the Americans with
14 Disabilities Act of 1990, U.S.C. §12101, *et seq.*

15 8. Pursuant to supplemental jurisdiction, an attendant and related cause
16 of action, arising out of the same nucleus of operative facts and arising out of the
17 same transactions, is also brought under California’s Unruh Civil Rights Act,
18 which expressly incorporates the Americans with Disabilities Act.

19 9. Venue is proper in this court pursuant to 28 U.S.C. U.S.C. §1331(b)
20 and is founded on the fact that the real property which is the subject of this action
21 is located in this district and that Plaintiff’s causes of action arose in this district.

22 **III. FACTS**

23 10. Plaintiff uses a wheelchair for mobility.

24 11. Defendants’ business is open to the public, a place of public
25 accommodation, and a business establishment.

26 12. Plaintiff took his family member to the dental office on June 17, 2025.

1 13. Unfortunately, during Plaintiff's visit, Defendants did not offer
2 persons with disabilities equivalent facilities, privileges, advantages, and
3 accommodations offered to other persons.

4 14. Upon arriving at the dental office, Plaintiff realized there was no
5 accessible parking on the premises. As he accompanied his family member to the
6 front door, Plaintiff then realized he would be unable to attend the appointment
7 with his family member because there was a set of stairs creating an access barrier
8 to the dental office. It was important for Plaintiff to attend this appointment
9 because he would be translating during the appointment. While Plaintiff's relative
10 went inside, he drove back home to wait until it was time to pick up his relative.
11 He was forced to connect with his family member via phone and translate from
12 there. It was frustrating and embarrassing for Plaintiff to be denied access to the
13 office. He was unable to assist his family member in the manner they had planned
14 due to Defendant's refusal to provide any accessible accommodations for persons
15 in a wheelchair such as Plaintiff.

16 15. Plaintiff encountered barriers that interfered with and denied Plaintiff
17 the ability to use and enjoy the goods, services, privileges, advantages, and
18 accommodations offered by Defendants at the Subject Property.

19 16. These barriers violate one or more standards of the Americans with
20 Disabilities Act ("2010 ADA") and/or the California Building Codes ("2022
21 CBC").

22 17. Parking for patrons visiting the Subject Property is among the
23 facilities, privileges, advantages, and accommodations offered by Defendants.

24 18. According to the U.S. Department of Justice, "a public
25 accommodation's first priority should be to enable individuals with disabilities to
26 physically enter its facility. This priority on 'getting through the door' recognizes
27 that providing physical access to a facility from public sidewalks, public
28 transportation, or parking is generally preferable to any alternative arrangements in

1 terms of both business efficiency and the dignity of individuals with disabilities.”
2 ADA Title III Technical Assistance Manual §III-4.4500.

3 19. When parking is provided, there must be at least one accessible
4 parking space designated and marked for disabled persons. Where more than one
5 parking facility is provided on a site, the number of accessible spaces provided on
6 the site shall be calculated according to the number of spaces required for each
7 parking facility. 2010 ADA §502 et seq.; 2010 ADA §208.2; 2022 CBC 11B-502
8 et seq; 2022 CBC 11B-208.2.

9 20. However, there is no accessible parking whatsoever for disabled
10 persons at the Subject Property.

11 21. There is no ADA compliant parking signage. ADA 2010 §502.6; 2022
12 CBC 11B-502.6, 2022 CBC 11B-703.7.2.1.

13 22. There is no sign in a conspicuous place at the entrance to the facility,
14 or immediately adjacent to on-site accessible parking and visible from each
15 parking space, stating that vehicles parked in designated accessible spaces not
16 displaying a disabled placard or license plate will be towed. 2022 CBC 11B-502.8.

17 23. The ground surface of certain areas of the parking lot is severely
18 cracked, broken and uneven. There are areas of severe raveling where the top layer
19 of aggregate is separated from the asphalt binder, creating ruts and potholes which
20 are extremely dangerous to persons using a wheelchair. ADA 2010 §302; 2022
21 CBC 11B-302; 28 C.F.R. §36.211(a); 2022 CBC 11B-108.

22 24. There is no accessible route from the parking area to the entrance of
23 the office. There is also a lip where the parking lot meets the sidewalk which
24 creates a change of elevation approximately one and a half inches thick/high,
25 resulting in one change in level more than 1/2 inch high. Plaintiff had difficulty
26 and discomfort traveling to and from the entrance of the dental office while
27 navigating this uneven surface. 2010 ADA §206; 2010 ADA §302; 2010 ADA
28

1 §303; 2010 ADA §403; 2010 ADA §404.2.5; 2022 CBC 11B-206; 2022 CBC
2 11B-302; 2022 CBC 11B-303; 2022 CBC 11B-403; 2022 CBC 11B-404.2.5.

3 25. The existing route also contains obstructions including approximately
4 5 steps, with no ramp or wheelchair lift provided. Plaintiff could not even enter the
5 dental office to assist his family member who needed translation services during
6 his dental visit. 2010 ADA §206; 2010 ADA §302; 2010 ADA §403; 2022 CBC
7 11B-206; 2022 CBC 11B-302; 2022 CBC 11B-403; 28 C.F.R. §36.211(a); 2022
8 CBC 11B-108.

9 26. The photos below show one or more of these violations.



27. The barriers existed during Plaintiff's visit to the Subject Property.
Plaintiff personally encountered these barriers.

28. These inaccessible conditions and barriers denied Plaintiff full and
equal access and caused him difficulty, discomfort, and embarrassment. Because of
the lack of compliant parking and a compliant access aisle, Plaintiff was placed at

1 risk of being blocked in by other vehicles and unable to get out of his vehicle or get
2 back into it. He was also at greater risk of being hit by a car while transferring to
3 and from his wheelchair. Because of the inaccessible route, Plaintiff had difficulty
4 navigating to and from the entrance of the office. Because of the flight of stairs,
5 Plaintiff was denied access to the dental office to assist his relative during the visit.

6 29. These barriers denied Plaintiff full and equal access due to his
7 disability because, *inter alia*, they caused Plaintiff anxiety, difficulty, discomfort,
8 and embarrassment which patrons who do not use a wheelchair for mobility do not
9 suffer when they access the Subject Property.

10 30. Plaintiff has Article III standing because he visited the subject
11 property to assist his relative with a dental visit. The Subject Property is
12 conveniently located and in the general area where he and his family live, shop, go
13 to medical appointments, visit family and friends, recreate, and do other normal
14 daily activities. Plaintiff intends to return to the Subject Property in the near future
15 when his family member needs another appointment, after the accessibility barriers
16 alleged herein have been removed.

17 31. Plaintiff alleges that Defendants knew that the barriers prevented
18 equal access. Plaintiff further alleges that Defendants had actual or constructive
19 knowledge that the architectural barriers prevented equal access, and that the
20 noncompliance with the Americans with Disabilities Act and Title 24 of the
21 California Building Code regarding accessible features was intentional.

22 32. Defendants have obstructed or failed to maintain, in working and
23 useable conditions, those features necessary to provide ready access to persons
24 with disabilities. “A public accommodation shall maintain in operable working
25 condition those features of facilities and equipment that are required to be readily
26 accessible to and usable by persons with disabilities.” 28 C.F.R. §36.211(a); 2022
27 CBC 11B-108.

1 33. The State of California Department of General Servicers, Division of
2 the State Architect (DSA) provides commentary to 2022 CBC 11B-108 as follows:

3 Features for accessibility must be permanently functional, unobstructed
4 and may not be removed. It is not sufficient to provide features such as
5 accessible routes, parking, elevators, ramps or signage if those features
6 are not maintained in a manner that enables individuals with disabilities
to use them.

7 DSA, 2019 California Access Compliance Advisory Reference Manual, p.84.

8 34. Defendants have the financial resources to remove these barriers
9 without much expense or difficulty in order to make their property more accessible
10 to their mobility impaired customers. The United States Department of Justice has
11 identified that these types of barriers are readily achievable to remove.

12 35. To date, Defendants refuse to remove these barriers, in violation of
13 the law, willfully depriving disabled persons including Plaintiff of important civil
14 rights.

15 36. On information and belief, Plaintiff alleges that the Defendants'
16 failure to remove these barriers was intentional because the barriers are logical and
17 obvious. During all relevant times Defendants had authority, control, and dominion
18 over these conditions and therefore the absence of accessible facilities was not a
19 mishap, but rather an intentional act.

20 37. The barriers to access are listed above without prejudice to Plaintiff
21 citing additional barriers to equal access by an amended complaint after inspection
22 by Plaintiff's Certified Access Specialist (CASp). *Oliver v. Ralphs Grocery Co.*,
23 654 F.3d 903 (9th Cir. 2011); *Doran v. 7-Eleven, Inc.*, 524 F.3d 1034 (9th Cir.
24 2008); *Chapman v. Pier One Imports (USA), Inc.*, 631 F.3d 939 (9th Cir. 2011).
25 All of these barriers to access render the premises inaccessible to physically
26 disabled persons who are mobility impaired, such as Plaintiff, are barriers Plaintiff
27 may encounter when he returns to the premises. All public accommodations must
28

1 be brought into compliance with all applicable federal and state accessibility
2 requirements.

3 **FIRST CAUSE OF ACTION**

4 Violation of the Americans With Disabilities Act of 1990

5 (42 U.S.C. §12101, *et seq.*)

6 (Against All Defendants)

7 38. Plaintiff alleges and incorporates by reference, as if fully set forth
8 again herein, each and every allegation contained in all prior paragraphs of this
9 complaint.

10 39. More than thirty years ago, the 101st United States Congress found
11 that although “physical or mental disabilities in no way diminish a person’s right to
12 fully participate in all aspects of society, yet many people with physical or mental
13 disabilities have been precluded from doing so because of discrimination...in such
14 critical areas as employment, housing, public accommodations, education,
15 transportation, communication, recreation, institutionalization, health services,
16 voting, and access to public services.” 42 U.S.C. §12101(a).

17 40. In 1990 Congress also found that “the Nation’s proper goals regarding
18 individuals with disabilities are to assure equality of opportunity, full participation,
19 independent living, and economic self-sufficiency for such individuals,” but that
20 “the continuing existence of unfair and unnecessary discrimination and prejudice
21 denies people with disabilities the opportunity to compete on an equal basis and to
22 pursue those opportunities for which our free society is justifiably famous.” 42
23 U.S.C. §12101(a).

24 41. In passing the Americans with Disabilities Act of 1990, which was
25 signed into law by President George H. W. Bush on July 26, 1990 (hereinafter the
26 “ADA”), Congress stated as its purpose:

27 “It is the purpose of this Act

1 (1) to provide a clear and comprehensive national mandate for the
2 elimination of discrimination against individuals with disabilities;

3 (2) to provide clear, strong, consistent, enforceable standards
4 addressing discrimination against individuals with disabilities;

5 (3) to ensure that the Federal Government plays a central role in
6 enforcing the standards established in this Act on behalf of individuals
7 with disabilities; and

8 (4) to invoke the sweep of congressional authority, including the power
9 to enforce the fourteenth amendment and to regulate commerce, in
10 order to address the major areas of discrimination faced day to-day by
11 people with disabilities.”

12 42 USC §12101(b).

13 42. As part of the ADA, Congress passed “Title III – Public
14 Accommodations and Services Operated by Private Entities” (42 U.S.C. §12181 *et*
15 *seq.*). Title III of the ADA prohibits discrimination against any person “on the
16 basis of disability in the full and equal enjoyment of the goods, services, facilities,
17 privileges, advantages, or accommodations of any place of public accommodation
18 by any person who owns, leases (or leases to), or operates a place of public
19 accommodation.” 42 U.S.C. §12182(a).

20 43. The specific prohibitions against discrimination include, *inter alia*, the
21 following:

- 22 • 42 U.S.C. §12182(b)(1)(A)(ii): “Participation in Unequal Benefit. - It
23 shall be discriminatory to afford an individual or class of individuals,
24 on the basis of a disability or disabilities of such individual or class,
25 directly, or through contractual, licensing, or other arrangements, with
26 the opportunity to participate in or benefit from a good, service, facility,
27 privilege, advantage, or accommodation that is not equal to that
28 afforded to other individuals.”
- 22 • 42 U.S.C. §12182(b)(2)(A)(ii): “a failure to make reasonable
23 modifications in policies, practices, or procedures when such

1 modifications are necessary to afford such goods, services, facilities,
2 privileges, advantages, or accommodations to individuals with
3 disabilities...;”

- 4
- 5 • 42 U.S.C. §12182(b)(2)(A)(iii): “a failure to take such steps as may be
6 necessary to ensure that no individual with a disability is excluded,
7 denied service, segregated, or otherwise treated differently than other
8 individuals because of the absence of auxiliary aids and services...;”
 - 9 • 42 U.S.C. §12182(b)(2)(A)(iv): “a failure to remove architectural
10 barriers, and communication barriers that are structural in nature, in
11 existing facilities... where such removal is readily achievable;”
 - 12 • 42 U.S.C. §12182(b)(2)(A)(v): “where an entity can demonstrate that
13 the removal of a barrier under clause (iv) is not readily achievable, a
14 failure to make such goods, services, facilities, privileges, advantages,
15 or accommodations available through alternative methods if such
16 methods are readily achievable.”

17 44. Plaintiff is a qualified individual with a disability as defined in the
18 Rehabilitation Act and in the Americans with Disabilities Act of 1990.

19 45. The acts and omissions of Defendants set forth herein were in
20 violation of Plaintiff’s rights under the ADA and the regulations promulgated
21 thereunder, 28 C.F.R. Part 36 *et seq.*

22 46. The removal of each of the physical and policy barriers complained of
23 by Plaintiff as hereinabove alleged, were at all times herein mentioned “readily
24 achievable” under the standards of §12181 and §12182 of the ADA. Removal of
25 each and every one of the architectural and/or policy barriers complained of herein
26 was already required under California law. Further, on information and belief,
27 alterations, structural repairs or additions since January 26, 1993, have also
28 independently triggered requirements for removal of barriers to access for disabled
persons per §12183 of the ADA. In the event that removal of any barrier is found
to be “not readily achievable,” Defendants still violated the ADA, per

§12182(b)(2)(A)(v) by failing to provide all goods, services, privileges, advantages and accommodations through alternative methods that were “readily achievable.”

47. On information and belief, as of the date of Plaintiff's encounter at the premises and as of the filing of this Complaint, Defendants' actions, policies, and physical premises have denied and continue to deny full and equal access to Plaintiff and to other mobility disabled persons in other respects, which violate Plaintiff's right to full and equal access and which discriminate against Plaintiff on the basis of his disabilities, thus wrongfully denying to Plaintiff the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations, in violation of 42 U.S.C. §12182 and §12183 of the ADA.

48. Defendants' actions continue to deny Plaintiff's rights to full and equal access and discriminated and continue to discriminate against him on the basis of his disabilities, thus wrongfully denying to Plaintiff the full and equal enjoyment of Defendants' goods, services, facilities, privileges, advantages and accommodations, in violation of the ADA, 42 U.S.C. §12182.

49. Further, each and every violation of the Americans With Disabilities Act of 1990 also constitutes a separate and distinct violation of California Civil Code §51(f), §52, §54(c) and §54.1(d), thus independently justifying an award of damages and injunctive relief pursuant to California law, including but not limited to Civil Code §54.3 and §55.

SECOND CAUSE OF ACTION

Violation of the Unruh Civil Rights Act

(California Civil Code §51, *et seq.*)

(Against All Defendants)

50. Plaintiff alleges and incorporates by reference, as if fully set forth again herein, each and every allegation contained in all prior paragraphs of this complaint.

1 51. California Civil Code §51 provides that physically disabled persons
2 are free and equal citizens of the state, regardless of their medical condition or
3 disability:

4 All persons within the jurisdiction of this state are free and equal, and
5 no matter what their sex, race, color, religion, ancestry, national origin,
disability, or medical condition are entitled to full and equal
6 accommodations, advantages, facilities, privileges, or services in all
7 business establishments of every kind whatsoever.

8 California Civil Code §51(b) (emphasis added).

9 52. California Civil Code §51.5 also states, in part: "No business,
10 establishment of any kind whatsoever shall discriminate against...any person in
11 this state on account" of their disability.

12 53. California Civil Code §51(f) specifically incorporates (by reference)
13 an individual's rights under the ADA into the Unruh Act.

14 54. California Civil Code §52 provides that the discrimination by
15 Defendants against Plaintiff on the basis of his disability constitutes a violation of
16 the general antidiscrimination provisions of §51 and §52.

17 55. Each of Defendants' discriminatory acts or omissions constitutes a
18 separate and distinct violation of California Civil Code §52, which provides that:

19 Whoever denies, aids or incites a denial, or makes any discrimination
20 or distinction contrary to section 51, 51.5, or 51.6 is liable for each and
21 every offense for the actual damages, and any amount that may be
22 determined by a jury, or a court sitting without a jury, up to a maximum
23 of three times the amount of actual damage but in no case less than four
24 thousand dollars (\$4,000), and any attorney's fees that may be
determined by the court in addition thereto, suffered by any person
denied the rights provided in Section 51, 51.5, or 51.6.

25 56. Any violation of the Americans with Disabilities Act of 1990
26 constitutes a violation of California Civil Code §51(f), thus independently
27 justifying an award of damages and injunctive relief pursuant to California law,
28 including Civil Code §52. Per Civil Code §51(f), "A violation of the right of any

individual under the Americans with Disabilities Act of 1990 (Public Law 101-336) shall also constitute a violation of this section.”

57. The actions and omissions of Defendants as herein alleged constitute a denial of access to and use of the described public facilities by physically disabled persons within the meaning of California Civil Code §51 and §52.

58. The discriminatory denial of equal access to and use of the described public facilities caused Plaintiff difficulty, discomfort, and embarrassment.

59. As a proximate result of Defendants' action and omissions, Defendants have discriminated against Plaintiff in violation of Civil Code §51 and §52, and are responsible for statutory, compensatory and actual damages to Plaintiff, according to proof.

PRAYER FOR RELIEF

Plaintiff has no adequate remedy at law to redress the wrongs suffered as set forth in this Complaint. Plaintiff has suffered and will continue to suffer irreparable injury as a result of the unlawful acts, omissions, policies, and practices of the Defendants as alleged herein, unless Plaintiff is granted the relief he requests. Plaintiff and Defendants have an actual controversy and opposing legal positions as to Defendants' violations of the laws of the United States and the State of California.

The need for relief is critical because the civil rights at issue are paramount under the laws of the United States of America and the State of California.

WHEREFORE, Plaintiff prays judgment against Defendants, and each of them, as follows:

1. Issue a preliminary and permanent injunction directing Defendants as current owners, operators, lessors, and/or lessees of the Subject Property and premises to modify the above described property, premises, policies and related facilities to provide full and equal access to all persons, including persons with physical disabilities; and issue a

1 preliminary and permanent injunction pursuant to ADA §12188(a) and
2 state law directing Defendants to provide facilities and services usable
3 by Plaintiff and similarly situated persons with disabilities, and which
4 provide full and equal access, as required by law, and to maintain such
5 accessible facilities once they are provided; to cease any discriminatory
6 policies; and to train Defendants' employees and agents how to
7 recognize disabled persons and accommodate their rights and needs;

8 2. Retain jurisdiction over the Defendants until such time as
9 the Court is satisfied that Defendants' unlawful policies, practices, acts
10 and omissions, and maintenance of physically inaccessible public
11 facilities and policies as complained of herein no longer occur, and
12 cannot recur;

13 3. Award to Plaintiff all appropriate damages, including but
14 not limited to actual and statutory damages according to proof;

15 4. Award to Plaintiff all reasonable attorney fees, litigation
16 expenses, and costs of this proceeding pursuant to 42 U.S.C §12205 and
17 California Civil Code §52; and

18 5. Grant such other and further relief as this Court may deem
19 just and proper.

20
21 DATED: July 3, 2025

VALENTI LAW APC

22
23 By: /s/ Matthew D. Valenti
24 Matthew D. Valenti
25 Attorney for Plaintiff
26 Ahmed Al-kubaisi
27
28

JURY DEMAND

Plaintiff hereby demands a trial by jury for all claims and issues for which a jury is permitted.

DATED: July 3, 2025

VALENTI LAW APC

By: /s/ Matthew D. Valenti

Matthew D. Valenti
Attorney for Plaintiff
Ahmed Al-kubaisi